

Application No.: 09/916611

Docket No.: 00306-00142-USU



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Johnnie R. Roberts et al.

Application No.: 09/916611

Confirmation No.: 8709

Filed: July 27, 2001

Art Unit: 1616

For: MANUFACTURE AND USE OF A
HERBICIDE FORMULATION

Examiner: A. N. Pryor

INFORMATION DISCLOSURE STATEMENT (IDS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO/SB/08. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

The applicant has just learned of a product sold in Australia that contained 2,4-dichlorophenoxyacetic acid in the acid form. The product was called Nufarm AF-300.

Information from the Australian web site

<http://www.dpi.qld.gov.au/extra/asp/infopest/nra/labels.asp?prodcode=41487>

shows that this product was first registered in July of 1999.

The earliest information that applicants have able to find on the composition of AF-300 is found on their MSDS sheet, dated January 2002 (available on the web at

http://www.msds.com.au/data/msds/nufarm/AF-300_24107506.pdf.

This MSDS sheet shows the following composition:

2,4-Dichlorophenoxy acetic acid at 300 grams per liter
Synthetic ethoxylated alcohol at 50%
Solvent 400 at 235 grams per liter

Since the MSDS and other literature describe this product as containing kerosene (see page 3 under the heading of the subheading of proper Shipping under the heading of Storage and Transport), it is assumed that Solvent 400 IS kerosene or contains a significant level of kerosene.

The use of kerosene in significant amounts significantly affects the benefits of the applicants' formulation.

1. The solvent (kerosene) base of AF-300 likely causes problems with cleanout of spray tanks. This is a huge problem with traditional ester based phenoxy herbicides. Some plants are so sensitive to phenoxy damage that part per million residues can cause phytotoxicity when spray tanks are not properly cleaned.
2. Kerosene has a very noticeable and objectionable odor. Because 2,4-D esters are frequently applied in conjunction with kerosene, this would be a liability as compared with the applicants formulations which exhibit virtually no odor.
3. Kerosene poses a potential inhalation hazard. (See AF-300 MSDS sheet under Acute – Inhaled hazards).
4. Kerosene will likely cause deterioration of spray application equipment.

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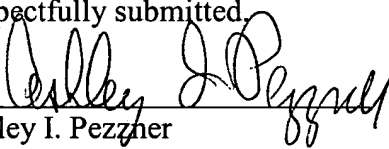
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For the above stated reasons, the applicants believe that significant amounts of kerosene would have a substantial negative impact on the formulations claimed.

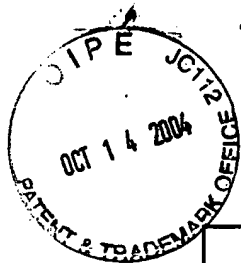
A copy of each reference on the PTO/SB/08 is attached.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-2775, under Order No. 00306-00142-USU.

Respectfully submitted,

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PTO/SB/08a/b (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Substitute for form 1449A/B/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete if Known	
				Application Number	09/916611-Conf. #8709
				Filing Date	July 27, 2001
				First Named Inventor	Johnnie R. Roberts
				Art Unit	1616
				Examiner Name	A. N. Pryor
Sheet	1	of	1	Attorney Docket Number	00306-00142-USU

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
	CA	AF 300 from NUFARM (registered 1999) Material Safety Data Sheet, Infosafe No. NU003, AF300 Herbicide	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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